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THE SITUATION IN CENTRAL AMERICA:
PROCEDURES FOR THE ESTABLISHMENT OF
A FIRM AND LASTING PEACE AND PROGRESS
IN FASHIONING A REGION OF PEACE,
FREEDOM, DEMOCRACY AND DEVELOPMENT

SECURITY COUNCIL
Fifty-first year

Identical letters dated 30 September 1996 from the Secretary-General addressed to the President of the General Assembly and to the President of the Security Council

I have the honour to transmit herewith the text of the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society, which was concluded on 19 September 1996 between the Peace Commission of the Government of Guatemala and the General Command of the Unidad Revolucionaria Nacional Guatemalteca (URNG). The signing ceremony took place at the Mexican Foreign Ministry in the presence of Mr. Angel Gurría, Foreign Minister, and among others, senior officials of the countries which are members of the Group of Friends of the Guatemalan Peace Process (Colombia, Mexico, Norway, Spain, United States of America and Venezuela). At the invitation of the two parties, over 100 personalities representing different sectors of Guatemalan society, including the three branches of government, the armed forces, the police, political parties, churches, universities, the media and other groups of civil society, attended the event.

This Agreement contains a comprehensive package of provisions relating to the strengthening of democratic institutions in Guatemala, including Congress, the administration of justice and the executive branch. In the context of ending 35 years of armed conflict, the Agreement emphasizes the need to overhaul the security functions of the State. Specifically, under a reformed Constitution, the police will be restructured, strengthened and consolidated in a new National Civil Police, which will assume responsibility for internal security, and the army will limit its role to external defence and will adjust its doctrine, training, deployment, size and budget accordingly. In accordance with the Framework Agreement, the text of the Agreement will be formally submitted on 2 October 1996 to the Assembly of Civil Society for its endorsement.

This is a landmark agreement. Its contents are consistent with the recommendations of the Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement of Human Rights in Guatemala (MINUGUA), which has been in place since November 1994; and with its signing, the parties have concluded their negotiations on the substantive part of the agenda which they agreed in the Framework Agreement of January 1994. Since then, agreements have been concluded on human rights; the resettlement of persons displaced by the armed conflict; the establishment of the historical clarification commission; the identity and rights of indigenous peoples; social and economic aspects and the agrarian situation; and now, the strengthening of civilian power and the role of the armed forces in a democratic society.

What now remains to be negotiated are the so-called operational items on the agreed agenda, namely the reintegration of URNG, the definitive ceasefire, constitutional reforms and the electoral regime and the timetable for the implementation and verification of the peace agreements.

In a public statement on 19 September 1996, I congratulated the parties on their achievement and pledged the continued support of the United Nations to enable them to fulfil their undertaking to conclude the negotiation process in the course of this year.

I should be grateful if you would convey the contents of the present letter and its annex to the attention of the members of the General Assembly, under agenda item 40, and of the Security Council.

(Signed) Boutros BOUTROS-GHALI

ANNEX

[Original: Spanish]

Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society

Whereas:

Peace rests upon democratization and the creation of structures and practices which will, in the future, prevent political exclusion, ideological intolerance and the polarization of Guatemalan society,

It is essential to overcome deficiencies and weaknesses in civil institutions, which are frequently inaccessible to most of the population, and the prevalence of patterns of thought and behaviour that have been detrimental to the rights and freedoms of citizens,

The signing of an agreement on a firm and lasting peace provides a historic opportunity to overcome the after-effects of past armed confrontation and ideological clashes and to rebuild and strengthen institutions in accordance with the needs of national development and the reconciliation of the Guatemalan people,

With the active and permanent participation of the people through Guatemalan organizations, political forces and social sectors, this renewal of institutions must embrace all levels, from local authorities to the functioning of State bodies, so that all those who are entrusted with public authority fulfil their commitment to serve social justice, political participation, and the security and full development of the individual,

It is vitally important to strengthen civilian power as the expression of the will of the people through the exercise of political rights, reinforce the legislative branch, reform the administration of justice and guarantee public security, all of which are crucial for the enjoyment of civil liberties and rights; and, within a democratic institutional framework, it is incumbent upon the Guatemalan armed forces to discharge the essential task of protecting national sovereignty and territorial integrity,

Together with the agreements already signed, this Agreement seeks to create the conditions for genuine reconciliation among the people of Guatemala, based upon respect for human rights and the diversity of its peoples and on their shared determination to overcome the lack of social, economic and political opportunities, which undermines democratic coexistence and restricts the development of the nation,

The implementation of this Agreement will benefit the whole population, consolidate the governance of the country and enhance the legitimacy of its democratic institutions in the interest of the people of Guatemala,

The Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (hereinafter referred to as "the Parties") have agreed as follows:

I. THE STATE AND ITS SYSTEM OF GOVERNMENT

1. In order to deepen the democratic and participatory process in such a way as to strengthen civilian power, it is of crucial importance to enhance, modernize and reinforce the State and its republican, democratic and representative system of government.

2. Pursuant to article 141 of the Political Constitution of the Republic, sovereignty is rooted in the people, who delegate its exercise to the legislative, executive and judicial branches. The Parties agree that the enhancement, modernization and reinforcement of the branches of the State require full and complete respect for the principle of their independence, separation and non-subordination to each other.

3. At the same time, the three branches must coordinate their efforts to fulfil their responsibilities arising out of the duty of the State to ensure, for all the inhabitants of Guatemala, life, freedom, justice, security, peace and the full development of the individual. Public authority, in the service of the common good, must be exercised by all the institutions of the State in such a way that no person, social sector, military force or political movement can usurp its exercise.

II. THE LEGISLATIVE BRANCH

4. Legislative authority belongs to the Guatemalan Congress, which is composed of deputies elected directly by universal and secret vote. It has a fundamental role to play in the representation of Guatemalan society, since democracy requires a body in which the overall situation of the country is embodied in an institutional form, harmoniously integrating a variety of interests.

5. For the legitimacy of the legislative body to be strengthened, it must fully discharge the following duties:

(a) The legislative function, in the interest of the people of Guatemala;

(b) Public discussion of essential national issues;

(c) Representation of the people;

(d) Its responsibilities towards the other branches of the State.

6. The Parties agree that the legislative branch must be enhanced, modernized and reinforced, and that the Presidency of the Congress will be requested to set up a multi-party agency for that purpose. This agency will work in conjunction with those legislative commissions which have been entrusted with responsibilities in connection with the follow-up to the agreements on a firm and lasting peace and the process of modernization and strengthening of the

Congress of the Republic. Its agenda, minimal and open-ended, will give priority to the following aspects:

(a) Revision of the Act on the Rules of Procedure of the Congress, in order to streamline parliamentary work and enable the Guatemalan Congress as a branch of the State to carry out what is required of it by the Political Constitution and by public opinion, and to enhance efficiency in the initiation, discussion and adoption stages of the legislative process;

(b) Proper utilization of constitutional mechanisms for the supervision of the executive branch, to ensure clarity in government policy, consistency in its programmes, transparency in the planning and implementation of the State budget, examination and evaluation of the responsibility of ministers and other high-ranking officials for their administrative acts or omissions, and monitoring of government administration to protect the general interests of the population while preserving institutional legitimacy;

(c) Appropriate legislative measures to strengthen the administration of justice;

(d) Legal or constitutional reforms to maintain the number of deputies in the Congress at a constant level;

(e) Reform of article 157 of the Constitution so that deputies cannot serve more than two consecutive terms, so as to avoid disrupting political careers while at the same time ensuring the renewal of political leadership in the Congress;

(f) Support for the work of the commissions, particularly the Office of the Technical Advisory Unit;

(g) Redefinition of the functions of the Congressional Human Rights Commission to allow for a more effective follow-up of the resolutions and recommendations contained in reports produced by the Counsel for Human Rights and other recognized public entities on the situation of human rights in Guatemala.

7. The Parties agree to request the Presidency of the Guatemalan Congress that the aforementioned congressional agency should be set up within a period not to exceed three months after the signing of the agreement on a firm and lasting peace, and that its work should be completed and submitted for consideration in plenary no more than one year after its establishment.

III. SYSTEM OF JUSTICE

8. One of the major structural weaknesses of the Guatemalan State stems from the system of administration of justice, which is one of the key public services. This system and the functioning of judicial proceedings within it suffer from faults and deficiencies. The antiquated legal practices, slow proceedings, absence of modern office management systems and lack of supervision

of officials and employees of the judicial branch breed corruption and inefficiency.

9. The reform and modernization of the administration of justice should be geared to preventing the judiciary from producing or covering up a system of impunity and corruption. The judicial process is not a simple procedure regulated by codes and ordinary laws but rather an instrument for ensuring the basic right to justice, which is manifested in a guarantee of impartiality, objectivity, universality and equality before the law.

10. A priority in this respect is to reform the administration of justice in order to put an end to inefficiency, eradicate corruption and guarantee free access to the justice system, impartiality in the application of the law, judicial independence, ethical authority and the integrity and modernization of the system as a whole.

11. In order to address all the foregoing, the Government undertakes to adopt, where it is within its power, and to promote in the Guatemalan Congress, where it is within the latter's competence, the following measures:

Constitutional reforms

12. Promote the reform of the following articles of the Constitution in the Guatemalan Congress:

CHAPTER IV - The judiciary

Section I: General provisions

(a) Article 203: the article should contain an initial reference to guarantees of the administration of justice and, as such, include: free access to the system of justice in the person's own language; respect for the multi-ethnic, multicultural and multilingual nature of Guatemala; legal assistance to those who cannot afford their own counsel; the impartiality and independence of judges; reasonable and prompt resolution of social conflicts and provision of alternative conflict-resolution mechanisms;

(b) The summarized contents of article 203 should be included in a separate paragraph;

(c) Articles 207, 208 and 209 should refer to the Act on Careers in the Judiciary and include the following provisions:

- Rights and duties of judges, the dignity of the profession and adequate remuneration;

- System of appointment and promotion of judges based on competitive examinations to promote professional excellence;

- Right and duty to pursue professional legal training and career development;

- Disciplinary system, with pre-established guarantees, procedures, levels of jurisdiction and penalties, and the principle that a judge or magistrate can be investigated and punished only by his peers;

(d) Article 210: the guarantee in the second paragraph should be deleted, since its contents would be covered by the three previous articles. This article should refer only to personnel of the judiciary who are not judges or magistrates.

Legal reforms

13. Promote the following legal reforms in the Guatemalan Congress:

Careers in the judiciary

(a) Establish careers in the judiciary as provided for by article 209 of the Constitution in accordance with the contents of this Agreement;

Public Defender's Office in criminal matters

(b) Establish a Public Defender's Office in criminal matters to provide legal assistance to those who cannot afford to retain their own counsel. It would be functionally autonomous and independent from the three branches of Government, have the same standing as the Public Prosecutor's Office and have effective country-wide coverage;

Penal Code

(c) Institute a reform of the Penal Code that gives priority to the criminal prosecution of those offences that are most detrimental to society, takes into account the country's cultural differences and customs, fully protects human rights and characterizes threats and coercion of judicial personnel, bribery, graft and corruption as particularly serious offences which are severely punished.

Administrative initiatives and measures

14. Take such administrative initiatives and measures as are necessary to:

(a) Provide the judiciary and Public Prosecutor's Office with more financial resources to enable them to carry out their technological modernization and to expand their coverage throughout the country, institute multilingualism in the system of justice in accordance with the Agreement on Identity and Rights of Indigenous Peoples, and implement an effective protection plan for witnesses, prosecutors and individuals who cooperate with the justice system. In this regard, by the year 2000, the Government intends to increase net public expenditure allocated to the judiciary and the Public Prosecutor's Office as a proportion of gross domestic product by 50 per cent over its 1995 level;

(b) Provide the necessary resources to the Public Defender's Office so that it can be established and begin its activities in 1998.

Commission on the strengthening of the justice system

15. The Parties also agree that, within 30 days after the signing of the agreement on a firm and lasting peace, the President of Guatemala will propose that a commission be established with the mandate to prepare within six months, following an extensive debate on the justice system, a report and a set of recommendations for implementation as soon as possible. That commission, which will receive advisory assistance from the Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA), shall include the qualified representatives of the various public institutions and social and private bodies that are involved in and/or are knowledgeable about the justice system.

16. The work of the Commission shall include and not be limited to the following:

Modernization

(a) How to effectively separate administrative functions from jurisdictional functions in the judiciary and the Public Prosecutor's Office, so as to relieve judges and prosecutors from burdensome tasks that prevent them from dedicating themselves fully to their proper mandates, instituting a modern and effective management system in both institutions;

(b) The adequate distribution of available financial resources in order to strengthen the system, bearing in mind the need for more rational use of resources;

(c) Outlining the basic elements of a bill for the civil service of the judiciary;

Access to the justice system

(d) With the participation of indigenous peoples' organizations, follow up on the commitments undertaken under the Agreement on Identity and Rights of Indigenous Peoples concerning how justice is administered among those peoples, with a view to facilitating a simple and direct access to the justice system by major sectors of the country that are currently outside the system or that are at a disadvantage when they appear in court;

Streamlining

(e) Phase in oral legal proceedings in order to extend the benefits of such a system to those areas where it does not exist, and the guarantee of direct access to a judge in all proceedings;

(f) Implement the expansion and recognition of alternative conflict-resolution mechanisms;

Professional excellence

(g) Devise a system for the selection and appointment of appeals court magistrates through competitive examinations;

(h) Strengthen the Judicial Training School and the training unit of the Public Prosecutor's Office as the main bodies for the selection and further training of judges, magistrates and prosecutors;

Non-State partners

(i) Promote the active involvement in the legal reform process of those bodies outside the State system of justice which play a decisive role in such reform.

IV. EXECUTIVE BRANCH

17. With a view to the strengthening of civilian power and the modernization of the executive branch, the Government undertakes to adopt, when it falls within its purview to do so, and to promote to the Congress, when it falls within the purview of that body to do so, the following measures:

A. Security agenda

18. Security is a broad concept. It is not limited to protection against external armed threats, which is the responsibility of the army, or protection against threats to the public order and internal security, which is the responsibility of the National Civil Police. All the Guatemala peace agreements posit that a firm and lasting peace must be based on respect for human rights and for the multi-ethnic, multicultural and multilingual character of the Guatemalan nation; national economic development with social justice; social participation; the conciliation of interests; and democratic institution-building.

19. Within this context, the security of the citizens and the State cannot be dissociated from the citizens' full exercise of their political, economic, social and cultural rights and duties. Social and economic imbalances, poverty and extreme poverty, social and political discrimination and corruption, among others, are risk factors and a direct threat to democratic coexistence, social peace and, hence, to democratic constitutional order.

20. The Parties believe that an Advisory Council on Security would help the executive branch to implement this concept of integral security. The Council shall be composed of eminent personalities representing the economic, social, professional, academic, ethnic, political and cultural diversity of Guatemala. These personalities shall be selected by the President of the Republic so that the Council can fully carry out its function of studying and presenting broadly consensual strategies in response to the major risks confronting the country and making the necessary recommendations to the President of the Republic.

B. Public security

National Civil Police

21. The protection of life and the security of the citizens, the maintenance of public order, the prevention and investigation of crime and the swift and transparent administration of justice cannot be guaranteed without the appropriate structuring of the public security forces. The design of a new model and its implementation are fundamental aspects of the strengthening of civilian power.

22. Accordingly, the restructuring of the country's existing police forces into a single National Civil Police, which would be responsible for public order and internal security, is necessary and cannot be delayed. This new police force should be professional and under the authority of the Ministry of the Interior. To that end, the Government undertakes to adopt, when it falls within its purview to do so, and to promote to the Congress of the Republic, when it falls within the purview of that body to do so, the following measures:

Constitutional reforms

23. The reform of the Constitution shall establish the functions and main characteristics of the police force as follows:

> "The National Civil Police shall be a professional and hierarchical institution. It shall be the only armed police force competent at the national level whose function is to protect and guarantee the exercise of the rights and freedoms of the individual; prevent, investigate and combat crime; and maintain public order and internal security. It shall be under the direction of the civil authorities and shall maintain absolute respect for human rights in carrying out its functions.
>
> "The law shall govern the requirements and procedures for admission to the police profession, as well as promotions, advancement, transfers, disciplinary action against officers and employees in the profession and other questions related to the functioning of the National Civil Police."

Legal reforms

24. This includes submission of a bill on security and the police, which would govern the functioning of the police system in Guatemala in accordance with constitutional reforms and the provisions contained in this Agreement.

25. The issue of a new Act on Public Order shall be promoted, consistent with democratic principles and the strengthening of civilian power. Any excess in the application of the new Act shall be duly punished. The limitations established by law in the interest of maintaining public order shall in no case permit excesses that would violate the general enjoyment of rights nor shall they empower the authorities to restrict rights other than those described in article 138 of the Constitution.

Organization

26. The police shall be organized as follows:

(a) A single police force shall be established under the authority of the Ministry of the Interior;

(b) It shall be hierarchically structured with a chain of command and duly established responsibilities;

(c) The multi-ethnic and multicultural character of Guatemala shall be taken into account in the recruitment, selection, training and deployment of police personnel;

(d) The necessary specialized departments shall be established to carry out its work, including the control of drug trafficking and smuggling, tax and customs control, arms registry and control, information and criminal investigation, conservation of the cultural heritage and the environment, border security, transit and road safety.

Police profession

27. The police profession shall be established in accordance with the following criteria:

(a) All members of the new police force shall receive training at the Police Academy, where they will be given extensive professional preparation and imbued with a culture of peace, respect for human rights and democracy, and compliance with the law;

(b) Appropriate regulations shall be established to govern recruitment and personnel administration policies. Professional police officers shall be required to provide their services within the institution for a minimum of two years;

(c) Members of the police force shall receive decent wages commensurate with their functions and an adequate benefits package.

The Police Academy

28. The Police Academy shall oversee admission to the police profession, and advancement and specialization within it. It must guarantee objectivity and equality of opportunity in its selection of candidates and the suitability of the recruits for the performance of their duties as professional police officers.

29. The Police Academy shall train the new police personnel as officers, inspectors, commanders and chiefs and retrain the current personnel, providing them with sufficient resources to carry out their assignments. Basic police training shall last a minimum of six months.

Functioning

30. The Government undertakes to promote a police and public security restructuring plan based on this Agreement, to which end the support of the international community and MINUGUA will be requested, taking into consideration international standards in this area. This restructuring plan shall be given the necessary resources for the national deployment of professional personnel, taking into account all the specialities of a modern national civil police force, and shall provide, inter alia, for the following steps to be taken:

(a) By late 1999, a new National Civil Police force, comprised of at least 20,000 members, shall be functioning throughout the national territory, under the authority of the Ministry of the Interior, in order to fulfil the commitments outlined herein and the specific tasks assigned to them;

(b) In particular, the capacities of the police in the area of information and criminal investigation shall be strengthened, in order to enable them to collaborate effectively in crime control and the swift and effective administration of justice with emphasis on coordination between the National Civil Police, the Public Prosecutor's Office and the judiciary;

(c) Cooperation between the National Civil Police and the municipal police forces shall be strengthened within the context of their respective powers;

(d) A transition procedure shall be established for the implementation of the provisions of paragraph (a) above in order to ensure that the graduates of the Academy are a positive element in the National Civil Police as a whole;

(e) The communities shall participate, through their representatives, in promoting the police profession, proposing candidates who meet the requirements and supporting the officers who will be responsible for public security at the local level;

(f) By the year 2000, the Government undertakes to increase its expenditure on public security as a percentage of the gross domestic product by 50 per cent over the amount expended in 1995.

International cooperation

31. The Parties urge the international community to grant such technical and financial cooperation as is required for the immediate implementation of all measures that will lead to the modernization and professionalization of the public security system in Guatemala.

Private security companies

32. The Government undertakes to sponsor, in the Guatemalan Congress, a bill to regulate the functioning and scope of such companies in order to monitor their operations and the professionalism of their personnel and ensure, in particular, that the companies and their employees remain within the appropriate sphere of operation, under the strict control of the National Civil Police.

Ownership and bearing of arms

33. In accordance with the Comprehensive Agreement on Human Rights, and in order to combat the proliferation of firearms in the hands of individuals and the lack of control of their acquisition and use, the Government of Guatemala undertakes to sponsor amendments to the Arms and Munitions Act so as to:

(a) Restrict the owning and bearing of weapons by individuals, in accordance with the provisions of article 38 of the Constitution;

(b) Confer responsibility in the matter to the Ministry of the Interior. The question of the owning and bearing of offensive weapons will be taken up in very exceptional, justified cases, and for that the opinion of the Ministry of Defence will be required.

34. In accordance with this Act, the Government undertakes to:

(a) Enforce the system of registration of weapons in circulation and identification of their owners;

(b) Transfer the registers which are currently deposited in the Arms and Munitions Control Department of the Ministry of Defence to the Ministry of the Interior, with verification by MINUGUA, in a process which will be completed by the end of 1997.

C. Armed forces

35. The signing of an agreement on a firm and lasting peace constitutes a fundamental change in relation to the conditions which have prevailed in Guatemala for more than three decades. This change has positive implications for State institutions, and in particular the Guatemalan armed forces. The role of the Guatemalan armed forces is defined as that of defending Guatemala's sovereignty and territorial integrity; they shall have no other functions assigned to them, and their participation in other fields shall be limited to cooperative activities. The measures laid down in this Agreement ensure that the doctrine, means, resources and deployment of the armed forces are in line with their functions and Guatemala's development priorities.

Constitutional reforms

36. The Government undertakes to sponsor the following amendments to the Guatemalan Constitution:

(a) Article 244. Constitution, organization and functions of the armed forces. The Guatemalan armed forces are a permanent institution in the service of the nation. They are unique and indivisible, essentially professional, apolitical, loyal and non-deliberative. Their function is to protect the sovereignty of the State and its territorial integrity. They consist of ground, air and naval forces. Their organization is hierarchical and based on the principles of discipline and obedience;

(b) Article 219. Military courts. The military courts shall take cognizance of the crimes and misdemeanours specified in the military code and in the corresponding regulations. Ordinary crimes and misdemeanours committed by military personnel shall be tried and judged by the ordinary courts. No civilian may be judged by military courts;

(c) Article 246. Duties and powers of the President over the armed forces. Replace the first paragraph by the following: "The President of the Republic is the Commander-in-Chief of the armed forces and shall issue his orders through the Minister of Defence, whether he is a civilian or a member of the military".

Legal framework

37. Amendments to the Constituent Act of the armed forces deriving from the amendments to the Guatemalan Constitution, and amendments deriving from the peace agreements, shall be sponsored.

Military doctrine

38. A new military doctrine shall be formulated in accordance with the reforms envisaged in this Agreement. The doctrine shall encompass respect for the Guatemalan Constitution, human rights, the international instruments ratified by Guatemala in the military field, protection of national sovereignty and independence, the territorial integrity of Guatemala and the spirit of the agreements on a firm and lasting peace.

Size and resources

39. The size and resources of the Guatemalan armed forces shall be sufficient to enable them to discharge their function of defending Guatemala's sovereignty and territorial integrity, and shall be commensurate with the country's economic capabilities.

Educational system

40. The necessary amendments shall continue to be made to the corresponding regulations so that the military education system is consistent, in its philosophical framework, with respect for the Guatemalan Constitution and other laws, with a culture of peace and democratic coexistence, with the doctrine defined in this Agreement, and with national values, the integral development of the individual, knowledge of our national history, respect for human rights and the identity and rights of the indigenous peoples, and the primacy of the individual.

Arms and munitions

41. The Government shall adopt the most appropriate policies for the acquisition of combat weapons and equipment in accordance with the new functions of the armed forces. The operation of the munitions factory shall be taken into account so that it can meet the needs of the civilian public security forces.

Restructuring

42. The public educational, financial, health, commercial, assistance and insurance institutions, installations and offices corresponding to the needs and functions of the Guatemalan armed forces shall operate under the same conditions as other similar not-for-profit institutions. All the graduates of the Adolfo V. Hall institutes shall join Guatemala's military reserves. The Guatemalan armed forces shall allocate programmes to them for that purpose. The Government shall decide on an appropriate use for the television frequency allocated to the Guatemalan armed forces.

Military and community service

43. The practice of voluntary military recruitment shall be continued, until the Government of Guatemala, on the basis of the Comprehensive Agreement on Human Rights, adopts the necessary administrative decisions, and the Guatemalan Congress approves a civil service law, which shall include military service and community service; this law shall entail fulfilment of a duty and a constitutional right, which is neither compulsory nor a violation of human rights, is universal and non-discriminatory, and would reduce the length of service and offer options to citizens.

44. On the basis of these general principles, the Government undertakes to sponsor the above-mentioned law, which shall be drafted on the basis of what has been agreed on and achieved by the joint working group which is currently considering the matter.

D. Presidency of the Republic

Constitutional amendments

45. The Government shall sponsor in the Guatemalan Congress the following amendments to the Guatemalan Political Constitution:

(a) With regard to the functions of the President of the Republic, include the following:

"When the ordinary means for the maintenance of public order and domestic peace are exhausted, the President of the Republic may exceptionally use the armed forces for this purpose. The deployment of the armed forces shall always be temporary, shall be conducted under civilian authority and shall not involve any limitation on the exercise of the constitutional rights of citizens.

"In order to take these exceptional measures, the President of the Republic shall issue an agreement to that end. The operations of the armed forces shall be limited to the time and modalities which are strictly necessary, and shall end as soon as the purpose has been achieved. The President of the Republic shall keep Congress informed about the operations of the armed forces, and Congress may at any time decide that such operations should cease. At all events, within 15 days of the end of such

operations, the President of the Republic shall submit to Congress a detailed report on the operations of the armed forces;"

(b) Amend article 246, entitled "Duties and powers of the President over the armed forces", by deleting the sentence in paragraph (b) of that article which reads: "He may, likewise, approve special pensions";

(c) Amend article 183, entitled "Functions of the President of the Republic", by deleting paragraph (r) and amending the text of paragraph (t) as follows: "To grant special pensions".

Security of the President and Vice-President

46. In order to guarantee the security of the President, Vice-President and their families and provide logistical support for the activities carried out by the Presidency of the Republic, the President of the Republic, in exercise of the powers conferred on him by law and in order to replace the Presidential Chief of Staff, shall organize an appropriate entity as he sees fit.

E. Information and intelligence

State intelligence-gathering bodies

47. The scope of the activities of the Intelligence Department of the Office of the Chief of Staff for National Defence shall be restricted to the role of the armed forces as defined in the Constitution and in the reforms envisaged in this Agreement. Its structure and resources shall be limited to this scope.

48. A Civilian Intelligence and Information Analysis Department to be established under the Ministry of the Interior shall be responsible for obtaining information to combat organized crime and ordinary crime, utilizing the means available and acting within the limits allowable under the legal system, and shall ensure full respect for human rights. Citizens who are subject to restrictions on their civil or political rights may not be employed by the Civilian Intelligence and Information Analysis Department.

49. A Strategic Analysis Secretariat reporting directly to the Office of the President of the Republic shall be established to inform and advise the Guatemalan President, with a view to anticipating, preventing and resolving situations posing any type of danger or threat to the democratic State. This body shall be purely civilian in character and may secure access to information available from public sources as well as information collected by the Civilian Intelligence and Information Analysis Department of the Ministry of the Interior and the Intelligence Department of the Office of the Chief of Staff for National Defence. It shall not be empowered to undertake its own covert investigations.

50. The Strategic Analysis Secretariat, the Intelligence Department of the Office of the Chief of Staff for National Defence and the Civilian Intelligence and Information Analysis Department of the Ministry of the Interior shall scrupulously respect the separation between intelligence and information-gathering functions and the operations to which they give rise. The

responsibility for dealing with any threats shall fall to the appropriate executing organs of the Government.

51. The Government undertakes to prevent the formation of networks or groups which are incompatible with the duties assigned to the intelligence and analysis offices referred to in paragraphs 47, 48 and 49.

52. With a view to preventing any abuse of power and guaranteeing respect for the freedoms and rights of citizens, the Government undertakes to encourage the Guatemalan Congress to adopt the following:

(a) A law establishing modalities for the supervision of State intelligence bodies by a designated commission of the legislative branch;

(b) A law regulating access to military or diplomatic information relating to national security, as provided for in article 30 of the Constitution, and containing provisions on classification and declassification procedures and levels.

Archives

53. All data contained in State archives shall be handled in strict compliance with article 31 of the Political Constitution. Once the constitutional reforms envisaged in this Agreement have been approved, the archives, records and any other type of State files relating to domestic security shall be transferred to the Ministry of the Interior. Archives, records and any other State files relating to the protection of the sovereignty and integrity of the territory shall be transferred to the Ministry of Defence. These Ministries shall be responsible for managing the information.

54. In keeping with article 31 of the Political Constitution, the Government shall promote criminal sanctions for attempts to maintain illegal files and records containing political information.

F. Professionalization of civil servants

55. Article 136 of the Constitution stipulates that the right of Guatemalan citizens to seek public office must be guaranteed. However, only individuals with ability, honesty and integrity are eligible to do so. Accordingly, pursuant to the Agreement on Social and Economic Aspects and Agrarian Situation, the Government shall accord priority to the following activities:

(a) Modernization of government services, including publication of personnel selection and classification procedures for all departments of the executive branch, and review of the staffing table to ensure that employees and officials meet the criteria of honesty and ability;

(b) Establishment of a career civil service;

(c) Promotion of the effective implementation of legislation on integrity and accountability;

(d) Strengthening and modernization of the Comptroller's Office;

(e) Promotion of criminal sanctions for acts of corruption and misappropriation of public funds.

V. SOCIAL PARTICIPATION

56. The strengthening of civilian power requires that the ability of citizens to participate in society also must be enhanced, by providing increased opportunities for citizen participation and building their capacity to participate.

57. In particular, social participation at the community level promotes respect for ideological pluralism and non-discrimination on social grounds, facilitates the broad, organized and harmonious participation of citizens in decision-making and enables them to shoulder their responsibilities and commitments in the quest for social justice and democracy.

58. With a view to facilitating community participation, and pursuant to the agreements already signed, the Government reiterates its commitment to decentralize the civil service in order to mobilize the full power of the State for the benefit of the population and thereby enhance the relationship between the State and the citizenry. To that end, it is necessary, inter alia, to:

(a) Strengthen municipal governments and ensure that the development council system is functioning properly. Accordingly, the relationship between these groups and the community shall be improved, to which end the authorities shall strengthen democratic practices; in addition, the relationship between these groups and the central Government shall be enhanced;

(b) In particular, establish local development councils. To accomplish that goal, the various social mechanisms created to improve people's lives shall be treated on a par with the councils; these include institutions serving indigenous communities, improvement committees and other groups which encourage all neighbours to participate in the development of their communities and municipalities and which are recognized and registered by their respective municipal authorities;

(c) Pursuant to the Agreement on Identity and Rights of Indigenous Peoples and the Agreement on Social and Economic Aspects and Agrarian Situation, create a set of circumstances conducive to the growth of local organizations that are representative of the population. In particular, the Government reiterates the commitment it made in the Agreement on Social and Economic Aspects and Agrarian Situation to enhance social participation with a variety of information and education tools focusing on the protection of human rights, the renewal of the political culture and the peaceful settlement of disputes. It also reaffirms its intention to empower social organizations to participate in social and economic development.

VI. THE ROLE OF WOMEN IN STRENGTHENING CIVILIAN POWER

59. In order to increase opportunities for women to participate in the exercise of civilian power, the Government undertakes to:

(a) Set up nationwide public awareness campaigns and educational programmes with a view to increasing public awareness of women's right to participate actively and decisively, both in rural areas and in the cities, in the process of strengthening civilian power, fully and equally and without any discrimination;

(b) Ensure that social and political organizations adopt specific policies to enhance and promote the role of women in the process of strengthening civilian power;

(c) Respect, promote, support and institutionalize women's organizations in rural areas and in the cities;

(d) Ensure that at all times in the exercise of power, women, whether organized or not, are provided with and guaranteed opportunities to participate.

60. The Parties appreciate the work undertaken at the national level by the various women's organizations and encourage them to work together to make their contribution to the process of implementing the agreements on a firm and lasting peace, especially those undertakings most directly related to women.

VII. OPERATIONAL CONSIDERATIONS RESULTING FROM THE END OF THE ARMED CONFLICT

Voluntary Civil Defence Committees (CVDC)

61. The Government shall ask the Congress of the Republic to repeal the decree creating CVDCs, effective on the day of the signing of the agreement on a firm and lasting peace. Demobilization and disarming of CVDCs shall take place within 30 days from the repeal of the decree. The CVDCs including those already demobilized, shall no longer have any institutional relationship with the armed forces of Guatemala and shall not be restructured in such a way as to restore that relationship.

Mobile military police

62. The Parties agree that the mobile military police shall be disbanded within one year from the signing of the agreement on a firm and lasting peace, at the end of which time its members will have been demobilized.

Reducing the size and budget of the armed forces

63. As from the signing of the agreement on a firm and lasting peace, in keeping with the new situation and the definition of the functions of the armed services of Guatemala contained in this Agreement, the Government of Guatemala shall begin a progressive process aimed at achieving the following:

(a) Reorganizing the deployment of military forces in the country, in 1997, assigning them for the purposes of national defence, border patrol and protection of sea, land and air jurisdiction;

(b) Reducing the size of the armed forces of Guatemala by 33 per cent in 1997, relative to its current size and organization;

(c) Redirecting and reallocating its budget to the constitutional functions and military doctrine referred to in this Agreement, making maximum use of available resources to achieve, by 1999, a 33 per cent reduction in military spending as a proportion of GDP, as compared to 1995. This will free resources from the Government's general budget to be applied to programmes in education, health and public safety.

Military training

64. The Government shall adapt and modify the content of those courses created in the context of the armed conflict with a view to counter-insurgency, to make them compatible with the new military education system and to guarantee the dignity of those involved, their observance of human rights, and the public-spiritedness of their role.

Reintegration programmes

65. The Government undertakes to design and implement, after the signing of the agreement on a firm and lasting peace, programmes to promote the productive reintegration of those members of the armed forces who may be demobilized as a result of this Agreement, with the exception of those found guilty of committing a criminal act. These programmes shall end within one year. The Government shall ensure that these plans receive the necessary funding.

VIII. FINAL PROVISIONS

First. - In accordance with the Framework Agreement, the Secretary-General of the United Nations is requested to ensure that this Agreement is carried out.

Second. - This Agreement is part of the agreement on a firm and lasting peace and shall take effect when the latter is signed.

Third. - This Agreement shall be widely publicized.

Mexico City, 19 September 1996.

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